

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/12/2018 1:25:15 AM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Recusal List
Attachments: Sites for selected parties International Paper et al - Final_06-27-2018.xlsx

Found it. This is the list generated by the Office of Site Remediation Enforcement that lists those sites at which one of the Acting Administrator's former clients is a party.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Leopold, Matt (OGC)
Sent: Wednesday, July 11, 2018 8:20 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Recusal List

I was looking for this, but could you provide the site list as well?

From: Fugh, Justina
Sent: Tuesday, July 10, 2018 8:00 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Recusal List

Hi,
Did you want his recusal statement? If so, see attached. Or did you want the latest list of Superfund sites generated by OECA at which one of his former clients may be a party? If the latter, I have to look for that.
Justina

From: Leopold, Matt (OGC)
Sent: Tuesday, July 10, 2018 7:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Recusal List

Can you please provide the Acting Administrator's recusal list? Thanks

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency

(202) 564-8040

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/10/2018 11:59:56 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Recusal List
Attachments: DA Signed Recusal Statement .pdf

Hi,

Did you want his recusal statement? If so, see attached. Or did you want the latest list of Superfund sites generated by OECA at which one of his former clients may be a party? If the latter, I have to look for that.
Justina

From: Leopold, Matt (OGC)
Sent: Tuesday, July 10, 2018 7:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Recusal List

Can you please provide the Acting Administrator's recusal list? Thanks

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/6/2018 7:24:24 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Beach, Christopher [beach.christopher@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Konkus, John [konkus.john@epa.gov]
Subject: RE: Wheeler Recusal Questions

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Friday, July 06, 2018 3:23 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Beach, Christopher <beach.christopher@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Re: Wheeler Recusal Questions

Deliberative Process / Ex. 5

Ryan Jackson

Chief of Staff

U.S. EPA

Personal Phone / Ex. 6

On Jul 6, 2018, at 3:11 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Chris,

Please see my suggested responses below:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beach, Christopher

Sent: Friday, July 06, 2018 2:38 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John
<konkus.john@epa.gov>

Subject: Wheeler Recusal Questions

Justina, here are the two issues/questions that Ryan mentioned for your review and thoughts. Thanks!

Deliberative Process / Ex. 5

<DA Signed Recusal Statement .pdf>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/6/2018 7:14:10 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: FW: Wheeler Recusal Questions
Attachments: DA Signed Recusal Statement .pdf

Hi Kevin,

Deliberative Process / Ex. 5

Justina

From: Fugh, Justina
Sent: Friday, July 06, 2018 3:11 PM
To: Beach, Christopher <beach.christopher@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: RE: Wheeler Recusal Questions

Hi Chris,

Please see my suggested responses below:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Beach, Christopher

Sent: Friday, July 06, 2018 2:38 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: Wheeler Recusal Questions

Justina, here are the two issues/questions that Ryan mentioned for your review and thoughts. Thanks!

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/6/2018 7:10:57 PM
To: Beach, Christopher [beach.christopher@epa.gov]
CC: Jackson, Ryan [jackson.ryan@epa.gov]; Wilcox, Jahan [wilcox.jahan@epa.gov]; Konkus, John [konkus.john@epa.gov]
Subject: RE: Wheeler Recusal Questions
Attachments: DA Signed Recusal Statement .pdf

Hi Chris,

Please see my suggested responses below:

Deliberative Process / Ex. 5

Justina

From: Beach, Christopher

Sent: Friday, July 06, 2018 2:38 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Konkus, John <konkus.john@epa.gov>

Subject: Wheeler Recusal Questions

Justina, here are the two issues/questions that Ryan mentioned for your review and thoughts. Thanks!

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 12:11:04 AM
To: Keith, Jennie [Keith.Jennie@epa.gov]
Subject: RE: NERO Luncheon Series

Agreed.

From: Keith, Jennie
Sent: Monday, July 23, 2018 2:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon Series

Justina, **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Do you agree with me? Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 18, 2018 11:42 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: NERO Luncheon Series

Deliberative Process / Ex. 5

From: Dickerson, Aaron
Sent: Wednesday, July 18, 2018 6:23 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: NERO Luncheon Series

Hi Jennie/Justina

Jennie - Thanks again for the briefing today as it was very helpful. Below is the lunch series from NERO

Deliberative Process / Ex. 5

He previously received approval from Justina to attend a NERO dinner which he paid for himself, but this is a speaking request. Can you please advise?

Thank you.

From: Molina, Michael
Sent: Monday, July 16, 2018 3:15 PM
To: Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: Re: NERO Luncheon Series

Deliberative Process / Ex. 5 MM

Sent from my iPhone

On Jul 16, 2018, at 2:40 PM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>
Date: July 16, 2018 at 12:43:23 PM EDT
To: "'wheeler.andrew@epa.gov'" <wheeler.andrew@epa.gov>
Subject: NERO Luncheon Series

Hi Andy,

Congratulations on your new role at EPA! I hope all is going well. It should come as no surprise that NERO would love for you speak at one of our lunches. Before sending a formal invite, I thought I might just initially reach out to you personally to see if it was something you would be interested in doing.

We have a few target dates in mind based on Hyatt availability, but certainly will work around your availability if you're able to fit it in. The dates we are targeting are: Wednesday, Sept. 12; Tuesday, Sept. 24; and Tuesday, Oct 2.

When you have a moment, please let us know. Thanks so much!

Jo Ann Pawela
National Energy Resources Organization (NERO)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 6/27/2018 11:17:56 PM
To: Molina, Michael [molina.michael@epa.gov]
CC: Vanroden, Victoria [Vanroden.Victoria@epa.gov]
Subject: heads up
Attachments: Sites for selected parties International Paper et al - Final_06-27-2018.xlsx

Hi Michael,

Deliberative Process / Ex. 5

Victoria and Mary --

Thank you so much for your help! Michael is the senior advisor to the Deputy Administrator, just to give you some context.

Cheers to all,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/1/2018 6:44:04 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Konkus, John [konkus.john@epa.gov]
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 01, 2018 2:28 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Ryan Jackson
Chief of Staff
U.S. EPA

Personal Phone / Ex. 6

On Aug 1, 2018, at 2:25 PM, Konkus, John <konkus.john@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Jackson, Ryan
Sent: Wednesday, August 1, 2018 1:50 PM
To: Konkus, John <konkus.john@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for comment on Wheeler and lobbying

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, August 1, 2018 1:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FW: Request for comment on Wheeler and lobbying

Justina

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thoughts?

Deliberative Process / Ex. 5

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, August 1, 2018 1:21 PM
To: Press <Press@epa.gov>
Subject: Request for comment on Wheeler and lobbying

Hi,

We're planning to run a story tomorrow morning that takes a closer look at the lobbying Administrator Wheeler did before coming to EPA and how little the Trump administration knows or is concerned about it.

It focuses mainly on the clients and work that Wheeler didn't discuss with NYT today. Specifically, it highlights the work he did for Celanese and other companies interested in the RFS, none of which is covered by his recusal agreement. Also mentioned are ICOR International, which is interested in EPA regulations on hydrofluorocarbon alternatives, and other clients he worked for on unknown issues. Meredith McGehee, the head of IssueOne, is quoted as saying the fact that Wheeler's recusal statement doesn't include more clients or issues he worked on shows the Trump administration isn't interested in eliminating conflicts of interest.

As I understood it from my conversation with career EPA ethics officials on Monday, they don't review work he did for clients that falls outside the two-year recusal window and Administrator Wheeler is the one who determined which clients were included in that window. Is that correct? If so, what assurance should the public have that the ethics office won't be forced to offer new opinions on Administrator Wheeler's lobbying past as new information occurs, as happened with former Administrator Pruitt's condo lease agreement?

If my understanding of the vetting process is wrong, then please elaborate on how ethics officials reviewed his work for ADM, Darling, Celanese and others. What additional documentation was produced in those discussions? Can you provide me with those documents?

Please get back to me with any comments or additional information by 5 p.m.

Thanks, C

Corbin Hiar
E&E News Reporter
O: 202 446 0438
M: **Personal Phone / Ex. 6**
T: [@corbinhiar](https://twitter.com/corbinhiar)

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/18/2018 3:01:19 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: Ethics Agreement
Attachments: Wheeler draft refusal statement.docx; Lucky Buns ethics advice.docx

Kevin,
here's the draft refusal. In the cover note to Mr. Wheeler, I flagged the following:

-
-
-

Deliberative Process / Ex. 5

Justina

From: Minoli, Kevin
Sent: Friday, May 18, 2018 10:53 AM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Ethics Agreement

Andrew- Justina and I just discussed the plan to get you the draft yesterday, in fact, and so we expect to be able to have a draft to you today.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 18, 2018, at 8:15 AM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Can I get the next draft of my ethics agreement back? I want to finalize it and give it to my assistants.

Deliberative Process / Ex. 5

Thank you.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

4/18/18

NOTE TO: Andrew Wheeler

During your new employee ethics orientation, you indicated that, prior to joining federal service, you put money into Lucky Buns, which is a burger and chicken sandwich restaurant located in Washington, DC. You will not be receiving any share of the company's profits; instead, you have been given a "monthly tab". Rather than pay the bill each time, you may visit as many times as you wish during that month and "run up the tab" to \$2000/month. In this way, you will be able to "treat" subordinates or non-federal individuals.

You wondered whether this arrangement will comport with the federal gift rules. OGC/Ethics consulted informally with the Office of Government Ethics on this question, and we conclude that you may proceed with this arrangement.

We reason that you have an "executive account" for which you paid a flat fee that entitles you to a monthly tab at an established amount. By always paying for the lunches, you will avoid putting yourself in a situation in which you may be accepting a gift from a lobbyist or non-federal entity. Moreover, if you take subordinates, then you will not be in a situation in which you may be accepting an impermissible gift from them.

We caution you, though, to be mindful of the fact that you are still subject to the gift prohibition not to give a gift of more than \$10 to the Administrator. That said, if the occasion is "special or infrequent," such as a non-annual event, then this "gift between employees" rule does not apply.

Justina

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/18/2018 2:56:17 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: RE: Ethics Agreement

Hi there,

Actually, earlier today, I dropped off a package of materials with Carly:

- Draft recusal
- Cheat sheet for answering the ethics agreement compliance form
- Advice about the restaurant, Lucky Buns

Plus, I will see Michael Molina early this afternoon for his new employee ethics orientation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Friday, May 18, 2018 10:53 AM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Ethics Agreement

Andrew- Justina and I just discussed the plan to get you the draft yesterday, in fact, and so we expect to be able to have a draft to you today.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 18, 2018, at 8:15 AM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Can I get the next draft of my ethics agreement back? I want to finalize it and give it to my assistants.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thank you.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/17/2018 10:01:01 PM
To: Carroll, Carly [Carroll.Carly@epa.gov]; Burton, Tamika [burton.tamika@epa.gov]
CC: Jennie Keith [Keith.Jennie@epa.gov]
Subject: Deputy Speaking Requests

Dear Carly and Tamika –

This is your virtual introduction to Jennie Keith of OGC/Ethics. Among other things, Jennie works with the Administrator's scheduling staff to review invitations. She has not-so-secretly desired to work with the Deputy Administrator's staff too. From an ethics perspective, we worry about the principal's recusals, gifts and ethics pledge restrictions. Jennie can help you navigate those invitations that you are receiving for Mr. Wheeler.

Jennie is an experienced ethics official, having worked at the Office of Government Ethics and here in OGC/Ethics for several years. **Personal Matters / Ex. 6** though sometimes by telework. You all should work out a date to get together (by phone, skype or in person) so that she can talk to you about scheduling issues, what information she may need, and the one-page "info sheet" that she'll suggest you use.

For my part, I owe you guys a draft recusal statement for Mr. Wheeler (I really thought I had given it to him already, but it appears not). I will bring a package to you tomorrow that includes some background materials to explain why I've structured his recusal the way I've done.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/31/2018 9:09:51 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: revised recusal statement for Wheeler
Attachments: Wheeler draft updated recusal statement 7_31_18 redline.docx

Here you go

From: Leopold, Matt (OGC)
Sent: Tuesday, July 31, 2018 4:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: revised recusal statement for Wheeler

Can we have a redline from the prior version? Thanks

Sent from my iPhone

On Jul 31, 2018, at 2:44 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

Deliberative Process / Ex. 5

Ryan – I sent this to Sharnett to print out for you.
Justina

<Wheeler draft updated recusal statement 7_31_18.docx>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/31/2018 10:18:50 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: RE: while I have you ...
Attachments: CHEAT SHEET FOR COMPLETING THE ETHICS AGREEMENT COMPLIANCE FORM.docx; EA Certification (June 2017 version) - Deputy Administer Wheeler - EPA.PDF

Of course! Here you go.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Thursday, May 31, 2018 6:17 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: while I have you ...

Could you please, I'm sorry I didn't realize you needed that back from me.

Sent from my iPhone

On May 31, 2018, at 5:51 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Did you receive the ethics agreement compliance and cheat sheet that I sent you? I sent it to you together with the recusal, but got just the signed recusal back. Shall I send you that document again?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

CHEAT SHEET FOR COMPLETING THE ETHICS AGREEMENT COMPLIANCE FORM

ITEM	NOTE FROM JUSTINA	WHAT YOU SHOULD DO:
2	<p>Deliberative Process / Ex. 5</p>	<p>Deliberative Process / Ex. 5</p>
3a		
3b		
4		
5		
6a		
6b		
6c		
7a		
7b		
7c		
7d		
8a		
8b		
9		
11		

CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE Senate Confirmed Presidential Appointee		
1. Appointee's Information	a. Appointee's Name:	to be completed by OGE Andrew Wheeler
	b. Position Title:	to be completed by OGE Deputy Administrator
	c. Agency:	to be completed by OGE Environmental Protection Agency
	d. Date Ethics Agreement Signed:	to be completed by OGE October 10, 2017
	e. Date Confirmed:	to be completed by OGE April 12, 2018
	f. Due Date for Certification of Ethics Agreement Compliance:	to be completed by OGE July 18, 2018
2. Resignations	<i>I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
3. Divestitures	a. <i>I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	b. <i>I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
		Filing Date(s) of OGE Form 278-T Report(s):
4. Managed Accounts	<i>If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
5. Interim Recusals	<i>I complied with my interim recusal obligations pending the divestitures required by my ethics agreement.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

Andrew Wheeler

<p>6.</p> <p>Recusals</p> <p>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</p>	<p>a. I am recusing from particular matters in which I know I have a <u>personal</u> or <u>imputed</u> financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
	<p>b. I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
	<p>c. I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
<p>7.</p> <p>Waivers and Authorizations</p>	<p>a. I received a waiver pursuant to 18 U.S.C. § 208.</p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Financial interest:</p>
	<p>b. I received a waiver pursuant to Executive Order 13770.</p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Subject:</p>
	<p>c. I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Covered person(s):</p>
	<p>d. I received a waiver pursuant to 5 C.F.R. § 2635.503(c).</p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Former employer or payer:</p>

Andrew Wheeler

<p>8.</p> <p>Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service</p>	<p>Mark this box if not applicable:</p> <div style="text-align: center;"> <input type="checkbox"/> </div>	<p>a. <i>If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</i></p>	<p><input type="radio"/> <i>I received it (or it was accelerated) <u>prior to</u> my assumption of the duties of the position.</i></p> <p><input type="radio"/> <i>I received it (or it was accelerated) <u>after</u> my assumption of the duties of the position.</i></p> <p><input type="radio"/> <i>I forfeited it.</i></p>		
<p>9.</p> <p>Requirements for Regular Appointees</p>	<p><i>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</i></p> <p>If you are a Special Government Employee (SGE) or career Foreign Service Officer (FSO), select N/A.</p> <p><i>I have signed the ethics pledge pursuant to Executive Order 13770.</i></p> <p>If you are a SGE or career FSO or previously signed the pledge, select N/A.</p>			<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> <p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>	
<p>10.</p> <p>Additional Ethics Agreement Requirements</p>	<p>to be completed by OGE</p>	<p>to be completed by appointee</p> <p><i>I am complying with these requirements as described in the adjacent box.</i></p> <p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>			
<p>11.</p> <p>Comments of Appointee</p>					
<p>Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.</p>					
<p><i>I certify that the information I have provided is complete and accurate.</i></p>	<p>Appointee's Signature:</p>	<p>Date:</p>			

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 3

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/31/2018 9:51:42 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: while I have you ...

Did you receive the ethics agreement compliance and cheat sheet that I sent you? I sent it to you together with the refusal, but got just the signed refusal back. Shall I send you that document again?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/31/2018 9:36:42 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: FW: Invitation to NERO Annual Dinner
Attachments: Federal Govt. Ethics - FAQs - 6.21.18 Annual Awards Dinner.pdf; 06.21.18 NERO Annual Dinner Invitation.pdf

Hi there,

OGC/Ethics understands that you have received an invitation from the National Energy Resources Organization (NERO). You have been invited to attend as their guest at their annual awards dinner to be held this year on June 21, 2018, at the Capitol Hill Hyatt Regency Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump Ethics Pledge. NERO is not a federally registered lobbyist, so this invitation does not trigger any concerns under the lobbying gift ban.

The gift offered is an evening reception and dinner sponsored by NERO. I have confirmed that the organization is offering you a complimentary ticket, so we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you either because of your official position or because you were formerly associated with NERO. Irrespective of the reason for your invitation, OGC/Ethics concludes that you may attend.

In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance. If you do attend, then you will need not report this gift on your next financial disclosure report because we are evaluating your gift at the government rate (\$75), which is BELOW the reporting threshold (currently \$390). We note that there is a marked price differential between the government rate and the member/non-member rates (members pay \$450, while non-members pay \$900). Because you are a government employee, you qualify for the government rate, so that is the price point we are using to evaluate your ticket.

I appreciate that you were recently affiliated with NERO as a non-fiduciary director. Under the federal impartiality rules, you have a "covered relationship" with them. See 5 CFR 2635.502(b)(1)(iv). That said, this event takes place after business hours, and you will not be speaking or otherwise presenting information on behalf of the agency. Based on the facts before me, I don't see any reason to conclude that your attendance would raise any concern about a loss of impartiality in performing your official EPA duties.

Please note that this event is a fundraiser. Therefore, NERO cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. You should be placed by NERO wherever they wish to seat you and cannot be seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]
Sent: Wednesday, May 30, 2018 12:28 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas <Carole@goeasassociates.com>
Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela
Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

ANNUAL AWARDS DINNER

NERO

IS PLEASED TO PRESENT THE
2018

Distinguished Service Awards to

Majority Whip, Rep.

U.S. Senator

STEVE SCALISE and HEIDI HEITKAMP

American Energy

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

THURSDAY

JUNE

21

2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY

400 NEW JERSEY AVE, NW

☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

FOR ADDITIONAL INFORMATION:

ExecutiveDirector@NationalEnergyResources.com

or (703) 548-1764

THIS INVITATION IS NOT TRANSFERABLE

National Energy Resources Organization

2018 Annual Awards Dinner – Thursday, June 21, 2018

Federal Government Ethics – Frequently Asked Questions (5/30/18)

- 1.) Who are the sponsors of the event: National Energy Resources Organization (NERO).
- 2.) Are those sponsoring the event non-profit, 501(c)3? or a media organization: Yes, NERO is a 501(c)3.
- 3.) What is the purpose of the event? Is the event a fundraiser? The event is an annual awards dinner, at which NERO will recognize Majority Whip, Rep. Steve Scalise, and Senator Heidi Heitkamp, for their outstanding contributions to the energy industry; individuals who are retiring or have recently retired after several years in the energy industry; and traditional recognition awards for NERO members. Funds will be used to cover the cost of this event, and any amount exceeding that will be used for other NERO-sponsored activities and events.
- 4.) What other types of people are expected to attend? (For example, members from throughout a given industry; other Federal, state, or local government officials; etc.)
- Members of NERO, as well as non-members, consisting of executives from public and private utilities, corporations, and associations; state and federal regulators; attorneys; energy retailers; federal and state government employees
- NERO's invited guests also consist of: Senators, Members of Congress; House and Senate staff / Federal and state government employees; others as requested
- 5.) Will the attendees represent a range of persons interested in a given matter? If Yes, what matter?
- Yes; Energy.
- 6.) Approximately how many people are expected to attend? Approximately 250-300.
- 7.) What is the monetary value of the gift of free attendance (conference fee and/or food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event) and how was this cost determined? (Attach separate sheet, if necessary.) Approximately \$75 - \$125 for cocktail reception, sit-down dinner and dessert reception. Total estimated cost of these was divided by an estimated number of attendees.

National Energy Resources Organization
Carole A. Goeas, Executive Director
1707 Prince St., #5, Alexandria, VA 22314
(703) 548-1764

www.nationalenergyresources.com executivedirector@nationalenergyresources.com

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/31/2018 7:07:22 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]
Subject: RE: Invitation to NERO Annual Dinner

Hi Jennie,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks for your thoughts!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Keith, Jennie
Sent: Thursday, May 31, 2018 9:43 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Invitation to NERO Annual Dinner

Justina,

Deliberative Process / Ex. 5

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, May 30, 2018 5:06 PM
To: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Andrew Wheeler (the Deputy Administrator) was formerly affiliated with NERO, but he held a non fiduciary position with them so it's not impacted by the Trump pledge.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]
Sent: Wednesday, May 30, 2018 12:28 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas <Carole@goeasassociates.com>
Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela
Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

NATIONAL ENERGY RESOURCES ORGANIZATION

ANNUAL AWARDS DINNER

NERO

IS PLEASED TO PRESENT THE
2018

Distinguished Service Awards to

Majority Whip, Rep.

STEVE SCALISE

U.S. Senator

and HEIDI HEITKAMP

American Energy

THURSDAY

JUNE

21

2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY

400 NEW JERSEY AVE, NW

FOR ADDITIONAL INFORMATION:

ExecutiveDirector@NationalEnergyResources.com

or (703) 548-1764

THIS INVITATION IS NOT TRANSFERABLE

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/21/2018 5:28:35 PM
To: Molina, Michael [molina.michael@epa.gov]
Subject: Mr. Wheeler's recusal

Hi there,

Just a note to let you know that he sent me a revision to the recusal, and I've sent it back with his changes incorporated. He didn't cc you on the note to me, so I wanted to let you know that the recusal is back with him.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/21/2018 5:27:16 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: RE: Wheeler draft recusal statement v2.docx
Attachments: Wheeler draft recusal statement v3.docx

Hi,

I incorporated your comments and am attaching a clean version of the revision. I'll let Michael know that I've sent it to you.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Monday, May 21, 2018 1:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Wheeler draft recusal statement v2.docx

Attached are my comments. Thanks.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/31/2018 6:44:38 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Jackson, Ryan [jackson.ryan@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: revised recusal statement for Wheeler
Attachments: Wheeler draft updated recusal statement 7_31_18.docx

Hi there,

Deliberative Process / Ex. 5

Ryan – I sent this to Sharnett to print out for you.
Justina

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/31/2018 6:43:59 PM
To: Willis, Sharnett [Willis.Sharnett@epa.gov]
Attachments: Wheeler draft updated recusal statement 7_31_18.docx

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/30/2018 9:06:15 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]
Subject: FW: Invitation to NERO Annual Dinner
Attachments: Federal Govt. Ethics - FAQs - 6.21.18 Annual Awards Dinner.pdf; 06.21.18 NERO Annual Dinner Invitation.pdf

Andrew Wheeler (the Deputy Administrator) was formerly affiliated with NERO, but he held a non fiduciary position with them so it's not impacted by the Trump pledge.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]
Sent: Wednesday, May 30, 2018 12:28 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas <Carole@goeasassociates.com>
Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela
Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

ANNUAL AWARDS DINNER

NERO

IS PLEASED TO PRESENT THE
2018

Distinguished Service Awards to

Majority Whip, Rep.

U.S. Senator

STEVE SCALISE *and* HEIDI HEITKAMP

American Energy

[illegible]

THURSDAY

JUNE

21

2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY

400 NEW JERSEY AVE, NW

☆☆☆☆☆☆☆☆☆☆

FOR ADDITIONAL INFORMATION:

ExecutiveDirector@NationalEnergyResources.com

or (703) 548-1764

THIS INVITATION IS NOT TRANSFERABLE

National Energy Resources Organization

2018 Annual Awards Dinner – Thursday, June 21, 2018

Federal Government Ethics – Frequently Asked Questions (5/30/18)

- 1.) Who are the sponsors of the event: National Energy Resources Organization (NERO).
- 2.) Are those sponsoring the event non-profit, 501(c)3? or a media organization: Yes, NERO is a 501(c)3.
- 3.) What is the purpose of the event? Is the event a fundraiser? The event is an annual awards dinner, at which NERO will recognize Majority Whip, Rep. Steve Scalise, and Senator Heidi Heitkamp, for their outstanding contributions to the energy industry; individuals who are retiring or have recently retired after several years in the energy industry; and traditional recognition awards for NERO members. Funds will be used to cover the cost of this event, and any amount exceeding that will be used for other NERO-sponsored activities and events.
- 4.) What other types of people are expected to attend? (For example, members from throughout a given industry; other Federal, state, or local government officials; etc.)

Members of NERO, as well as non-members, consisting of executives from public and private utilities, corporations, and associations; state and federal regulators; attorneys; energy retailers; federal and state government employees

NERO's invited guests also consist of: Senators, Members of Congress; House and Senate staff / Federal and state government employees; others as requested

- 5.) Will the attendees represent a range of persons interested in a given matter? If Yes, what matter?

Yes; Energy.

- 6.) Approximately how many people are expected to attend? Approximately 250-300.

- 7.) What is the monetary value of the gift of free attendance (conference fee and/or food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event) and how was this cost determined? (Attach separate sheet, if necessary.) Approximately \$75 - \$125 for cocktail reception, sit-down dinner and dessert reception. Total estimated cost of these was divided by an estimated number of attendees.

National Energy Resources Organization
Carole A. Goeas, Executive Director
1707 Prince St., #5, Alexandria, VA 22314
(703) 548-1764

www.nationalenergyresources.com executivedirector@nationalenergyresources.com

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/30/2018 8:53:38 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: RE: Invitation to NERO Annual Dinner

Hi there,

Let me check on that government rate ... Jennie Keith of Team Ethics does most of the vetting on invitations, so I want to check with her. Will report back to you tomorrow!

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Wednesday, May 30, 2018 3:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation to NERO Annual Dinner

Justina, I would like to attend this dinner. I have been invited as a guest of NERO. Ideally I would like to attend without paying the government rate since they are a non-profit and have invited me. If that's not possible I'll buy a ticket. Thanks.

From: Executive Director [<mailto:ExecutiveDirector@nationalenergyresources.com>]
Sent: Wednesday, May 30, 2018 12:28 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Executive Director <ExecutiveDirector@nationalenergyresources.com>; Carole Goeas <Carole@goeasassociates.com>
Subject: Invitation to NERO Annual Dinner

Hi Andy,

I hope all is well! Attached, and below, is the invitation to the annual dinner. The Government rate for an individual ticket is \$75. I have also attached an informational page addressing the ethics questions we typically receive for our events. Happy to address any other questions they may have. Also, can we add you/your EPA email address to our distribution list so that you receive all invites?

Jo Ann Pawela

Administrative Support For Carole Goeas, Executive Director
National Energy Resources Organization (NERO)

ANNUAL AWARDS DINNER

NERO

IS PLEASED TO PRESENT THE
2018

Distinguished Service Awards to

Majority Whip, Rep.

U.S. Senator

STEVE SCALISE and HEIDI HEITKAMP

American Energy

THURSDAY

JUNE

21

2018

COCKTAILS 5:30

DINNER 7:00

CAPITOL HILL HYATT REGENCY

400 NEW JERSEY AVE, NW

☆☆☆☆

FOR ADDITIONAL INFORMATION:

ExecutiveDirector@NationalEnergyResources.com

or (703) 548-1764

THIS INVITATION IS NOT TRANSFERABLE

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/29/2018 9:36:44 PM
To: Molina, Michael [molina.michael@epa.gov]
Subject: have you seen the signed ethics agreement compliance form?
Attachments: EA Certification (June 2017 version) - Deputy Administer Wheeler - EPA.PDF; CHEAT SHEET FOR COMPLETING THE ETHICS AGREEMENT COMPLIANCE FORM.docx

Hi there,

I had printed out the attached ethics compliance form and cheat sheet for completing it, and given it to Mr. Wheeler. Have you seen it? I haven't received it back yet, so was wondering about it.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

CHEAT SHEET FOR COMPLETING THE ETHICS AGREEMENT COMPLIANCE FORM

ITEM	NOTE FROM JUSTINA	WHAT YOU SHOULD DO:
2	<p>Deliberative Process / Ex. 5</p>	<p>Deliberative Process / Ex. 5</p>
3a		
3b		
4		
5		
6a		
6b		
6c		
7a		
7b		
7c		
7d		
8a		
8b		
9		
11		

CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE Senate Confirmed Presidential Appointee		
1. Appointee's Information	a. Appointee's Name:	to be completed by OGE Andrew Wheeler
	b. Position Title:	to be completed by OGE Deputy Administrator
	c. Agency:	to be completed by OGE Environmental Protection Agency
	d. Date Ethics Agreement Signed:	to be completed by OGE October 10, 2017
	e. Date Confirmed:	to be completed by OGE April 12, 2018
	f. Due Date for Certification of Ethics Agreement Compliance:	to be completed by OGE July 18, 2018
2. Resignations	<i>I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
3. Divestitures	a. <i>I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	b. <i>I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
		Filing Date(s) of OGE Form 278-T Report(s):
4. Managed Accounts	<i>If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
5. Interim Recusals	<i>I complied with my interim recusal obligations pending the divestitures required by my ethics agreement.</i>	<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A

<p>6.</p> <p>Recusals</p> <p>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</p>	<p>a. I am recusing from particular matters in which I know I have a <u>personal</u> or <u>imputed</u> financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p>
	<p>b. I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
	<p>c. I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</p>	<p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>
<p>7.</p> <p>Waivers and Authorizations</p>	<p>a. I received a waiver pursuant to 18 U.S.C. § 208.</p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Financial interest:</p>
	<p>b. I received a waiver pursuant to Executive Order 13770.</p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Subject:</p>
	<p>c. I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Covered person(s):</p>
	<p>d. I received a waiver pursuant to 5 C.F.R. § 2635.503(c).</p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p>	<p><input type="radio"/> Yes <input type="radio"/> No</p> <p>Date:</p> <p>Former employer or payer:</p>

Andrew Wheeler

<p>8.</p> <p>Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service</p>	<p>Mark this box if not applicable:</p> <div style="text-align: center;"> <input type="checkbox"/> </div>	<p>a. <i>If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</i></p>	<p><input type="radio"/> <i>I received it (or it was accelerated) <u>prior to</u> my assumption of the duties of the position.</i></p> <p><input type="radio"/> <i>I received it (or it was accelerated) <u>after</u> my assumption of the duties of the position.</i></p> <p><input type="radio"/> <i>I forfeited it.</i></p>
<p>9.</p> <p>Requirements for Regular Appointees</p>	<p><i>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</i></p> <p>If you are a Special Government Employee (SGE) or career Foreign Service Officer (FSO), select N/A.</p> <p><i>I have signed the ethics pledge pursuant to Executive Order 13770.</i></p> <p>If you are a SGE or career FSO or previously signed the pledge, select N/A.</p>		
<p>10.</p> <p>Additional Ethics Agreement Requirements</p>	<p>to be completed by OGE</p>	<p>to be completed by appointee</p> <p><i>I am complying with these requirements as described in the adjacent box.</i></p> <p><input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p>	
<p>11.</p> <p>Comments of Appointee</p>			
<p>Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.</p>			
<p><i>I certify that the information I have provided is complete and accurate.</i></p>	<p>Appointee's Signature:</p>	<p>Date:</p>	

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 3

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/24/2018 12:08:58 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: Accepted: Ethics Training with Justina F.
Location: WJC-N 3412

Start: 4/25/2018 6:00:00 PM
End: 4/25/2018 7:00:00 PM

Recurrence: (none)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/17/2018 8:54:21 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
Subject: RE: is Andrew Wheeler here yet?

Thanks for the news!

From: Jackson, Ryan
Sent: Tuesday, April 17, 2018 4:50 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: is Andrew Wheeler here yet?

He will be sworn in now on Friday.

From: Fugh, Justina
Sent: Tuesday, April 17, 2018 3:13 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: is Andrew Wheeler here yet?

I have to set him up for his new employee ethics training and get him to sign the ethics pledge.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/20/2018 1:47:06 PM
To: Munoz, Charles [munoz.charles@epa.gov]
Subject: RE: Wheeler

Great minds think alike!

From: Munoz, Charles
Sent: Friday, April 20, 2018 9:47 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Wheeler

I love it when a plan comes together! Thank you!

Charles Munoz
White House Liaison
Environmental Protection Agency
202-380-7967

From: Fugh, Justina
Sent: Friday, April 20, 2018 9:45 AM
To: Munoz, Charles <munoz.charles@epa.gov>
Subject: RE: Wheeler

Hi there,
Tamika already scheduled me to see him for 30 minutes today, from 2 to 2:30!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Munoz, Charles
Sent: Friday, April 20, 2018 9:44 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Wheeler

Justina,

Andrew Wheeler asked me to have you reach out to him or his special assistant so that you 2 can schedule a quick chat.

Charles Munoz
White House Liaison

Environmental Protection Agency
202-380-7967

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/19/2018 10:25:08 PM
To: Burton, Tamika [burton.tamika@epa.gov]
Subject: Meeting with Mr. Wheeler

Hi Tamika,

Turns out that I'm going to be vexing. My boss, Kevin Minoli, would also like to participate in the initial ethics briefing for Mr. Wheeler, but **Personal Matters / Ex. 6** Can we try for Wednesday afternoon instead? But if we push it back to Wednesday or Thursday of next week, Kevin asks that we get even just 15 minutes on Friday (tomorrow) to check in on ethics. In other words, we would see Mr. Wheeler quickly on his first day, but then follow up more robustly (for that one hour training session) later in his first full week.

Would that work?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/19/2018 5:55:36 PM
To: Burton, Tamika [burton.tamika@epa.gov]
Subject: Declined: Deputy Wheeler Ethics Training with Justina Fugh
Location: WJC-N 3412
Start: 4/23/2018 2:00:00 PM
End: 4/23/2018 3:00:00 PM
Show Time As: Busy

Tamika,

OH NO!

Personal Matters / Ex. 6

SORRY about forgetting that. Can we try for

Tuesday instead?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/24/2018 7:39:48 PM
To: Neugeboren, Steven [Neugeboren.Steven@epa.gov]
Subject: RE: Deputy Administrator's signed recusal statement

Sure!

From: Neugeboren, Steven
Sent: Thursday, May 24, 2018 3:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Deputy Administrator's signed recusal statement

Can we forward this to staff for their information?

Steve Neugeboren
Associate General Counsel for Water
U.S. EPA
1200 Pennsylvania Ave., NW
Washington, DC 20460
202 (564-5488)

From: Fugh, Justina
Sent: Thursday, May 24, 2018 9:16 AM
To: OGC RCs and DRCs <OGC_RCs_and_DRCs@epa.gov>; OGC HQ ADDs <OGC_HQ_ADDs@epa.gov>
Subject: Deputy Administrator's signed recusal statement

Hi there,
Attached please find the signed recusal statement for Andrew Wheeler, the Deputy Administrator, which I am sharing for your general information.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/9/2018 8:57:45 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]
CC: Minoli, Kevin [Minoli.Kevin@epa.gov]; Leopold, Matt [Leopold.Matt@epa.gov]
Subject: RE: Request for comment re: Andrew Wheeler's work at FaegreBD

Hi Ryan,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Monday, April 09, 2018 4:43 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Leopold, Matt <Leopold.Matt@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Request for comment re: Andrew Wheeler's work at FaegreBD

Deliberative Process / Ex. 5

Kevin

Kevin S. Minoli

Principal Deputy General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

From: Jackson, Ryan
Sent: Monday, April 09, 2018 4:37 PM
To: Leopold, Matt <Leopold.Matt@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Request for comment re: Andrew Wheeler's work at FaegreBD

Deliberative Process / Ex. 5

From: Bowman, Liz

Sent: Monday, April 9, 2018 4:35 PM

To: Wheeler, Andrew R. (andrew.wheeler@faegrebd.com) <andrew.wheeler@faegrebd.com>; Lyons, Troy <lyons.troy@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>

Subject: FW: Request for comment re: Andrew Wheeler's work at FaegreBD

FYI

From: Bixby, Scott [<mailto:Scott.Bixby@thedailybeast.com>]

Sent: Monday, April 9, 2018 4:33 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>

Subject: Re: Request for comment re: Andrew Wheeler's work at FaegreBD

Thanks so much for your quick response, Liz!

From: Bowman, Liz <Bowman.Liz@epa.gov>

Sent: Monday, April 9, 2018 4:32:09 PM

To: Bixby, Scott

Subject: RE: Request for comment re: Andrew Wheeler's work at FaegreBD

Hi Scott – Thank you for the ability to comment. Andrew Wheeler will bring extraordinary credentials to EPA that will greatly assist the Agency as we work to implement the president's agenda. Andrew Wheeler has not lobbied EPA, nor any new EPA issues since President Trump was elected, and deregistered as lobbyist in August 2017. Mr. Wheeler consults with EPA career ethics officials, and will ensure that he recuses himself from any potential conflicts. Thank you – Liz

Additional background:

Mr. Wheeler has spent his entire career working in environmental policy. In addition to spending four years at EPA's Office of Pollution Prevention and Toxics during the George H. W. Bush and Bill Clinton administrations, he also spent many years on Capitol Hill. After serving as general counsel to U.S. Senator James Inhofe, he worked as staff director and chief counsel for two Senate Committees with vital roles in protecting human health and the environment: the U.S. Senate Committee on Environment and Public Works (EPW) and the U.S. Senate Subcommittee for Clean Air Wetlands and Nuclear Safety. Mr. Wheeler currently works as a principal at FaegreBD Consulting providing guidance on federal regulatory and legislative environmental and energy issues.

From: Bixby, Scott [<mailto:Scott.Bixby@thedailybeast.com>]

Sent: Monday, April 9, 2018 4:07 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>

Subject: Request for comment re: Andrew Wheeler's work at FaegreBD

Hi Liz –

Hope all is well! We're working on a story related to Andrew Wheeler's potential confirmation as deputy administrator of the EPA, specifically relating to his lobbying work on behalf of energy companies while at Faegre Baker Daniels. As a former lobbyist whose lobbying work for Murray Energy alone ran into the millions, how does Mr. Wheeler — and the EPA — plan to ensure that his past work wouldn't color his role as deputy administrator?

Thanks so much in advance for your help and time!

Scott Bixby

Weekend Editor

The Daily Beast

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/24/2018 1:50:32 PM
To: Veney, Carla [Veney.Carla@epa.gov]
Subject: Deputy Administrator's signed recusal statement
Attachments: DA Signed Recusal Statement .pdf

Hi there,

Attached please find the signed recusal statement for Andrew Wheeler, the Deputy Administrator. Can you please print it out for Matt's attention, just FYI?

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/24/2018 1:17:55 PM
To: Molina, Michael [molina.michael@epa.gov]
Subject: RE: DA Signed Recusal Statement

Thanks! I also sent it to Brian Hope in OEX so that it gets officially "entered" into whatever system of records they have.

From: Molina, Michael
Sent: Thursday, May 24, 2018 9:03 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: RE: DA Signed Recusal Statement

P.S.

Per the cc line, I already provided a copy to Mr. Jackson.

MM

From: Molina, Michael
Sent: Thursday, May 24, 2018 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: DA Signed Recusal Statement

Good morning Justina,

Attached is the Deputy Administrator's signed recusal letter. I assume you need the original. I can stop by later today to drop it off. Or, I am in 3320A if you are down this way. Just let me know.

Michael Molina

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,

Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/24/2018 1:14:15 PM
To: Hope, Brian [Hope.Brian@epa.gov]
Subject: Andrew Wheeler's signed recusal statement
Attachments: DA Signed Recusal Statement .pdf

Hi Brian,

I'm not sure what the process is for routing routine documents to the Administrator and Chief of Staff, so can I please impose on you to get this document to both of them? It's Andrew Wheeler's signed recusal statement.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/24/2018 1:11:52 PM
To: Molina, Michael [molina.michael@epa.gov]
Subject: RE: DA Signed Recusal Statement

Thanks, Michael! Oh, in this digital age, I'm actually fine with the pdf version only. But you can ask Carly or Tamika to just drop the original in pouch mail for me, eventually (mail code 22311A). No need for you to make a special trip to see me, though it's always a treat!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Thursday, May 24, 2018 8:58 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: DA Signed Recusal Statement

Good morning Justina,

Attached is the Deputy Administrator's signed recusal letter. I assume you need the original. I can stop by later today to drop it off. Or, I am in 3320A if you are down this way. Just let me know.

Michael Molina

From: Fugh, Justina
Sent: Friday, May 18, 2018 3:19 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Hey Michael,
Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 10:16:17 PM
To: Konkus, John [konkus.john@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Thursday, July 26, 2018 6:14 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Thursday, July 26, 2018 6:12 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Thursday, July 26, 2018 6:04 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

On Jul 26, 2018, at 4:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Do you still need this from me? What you have is okay, but if you want my thoughts, then ...

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 9:12:26 PM
To: Keith, Jennie [Keith.Jennie@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
Subject: RE: NERO Luncheon

And for being so gracious!

From: Keith, Jennie
Sent: Thursday, July 26, 2018 11:42 AM
To: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Thank you, Michael, for closing the loop with OGC/Ethics! Jennie for OGC/Ethics

From: Molina, Michael
Sent: Thursday, July 26, 2018 11:32 AM
To: Keith, Jennie <Keith.Jennie@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Thank you again,

I called NERO and explained our position and graciously 😊 declined.

Michael

From: Keith, Jennie
Sent: Wednesday, July 25, 2018 10:55 PM
To: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: NERO Luncheon

Evening Michael and Aaron,

OGC/Ethics recommends declining this speaking request for the Acting Administrator since he has a one-year cooling-off period with the group. If you review page 3 of his recusal statement under the heading, "Obligations under the Impartiality Provisions," the Acting Administrator cannot participate in matters involving NERO for one year from his resignation date.

This request is different than the one that Justina cleared earlier this year. I believe that request was to attend the organization's annual dinner. There, the Acting Administrator paid for his own ticket to the event. His participation was limited to being an attendee only and did not include any visible participation in the event.

Here, he is being asked to deliver a speech about EPA at a regular speaking series. This is impermissible because he is recused for one-year from participating in his official capacity in matters (such as this speaking engagement) involving NERO.

Michael, I recommend that you or the scheduling staff communicate directly with NERO, on behalf of the Acting Administrator, to decline this event. If you have other ideas or questions, please let me know! The Acting Administrator should not respond to this email, as you will do so on his behalf.

Thanks!
Jennie for OGC/Ethics

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 12:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>
Subject: RE: NERO Luncheon

Hi Michael,
Jennie Keith of Team Ethics is going to write back to you about this. Just so you know, though, Mr. Wheeler has a "covered relationship" with NERO since he was formally affiliated with it.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Wednesday, July 25, 2018 12:39 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: NERO Luncheon

Hi Justina,

Deliberative Process / Ex. 5 and wanted your review.

Thank you.

Michael.

Sent from my iPhone

Begin forwarded message:

From: "Wheeler, Andrew" <wheeler.andrew@epa.gov>
Date: July 25, 2018 at 12:11:38 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Molina, Michael" <molina.michael@epa.gov>
Subject: Fwd: NERO Luncheon

Begin forwarded message:

From: Executive Director <ExecutiveDirector@nationalenergyresources.com>
Date: July 25, 2018 at 11:05:52 AM EDT

To: "'wheeler.andrew@epa.gov'" <wheeler.andrew@epa.gov>

Subject: NERO Luncheon

Hi Andy,

I'm sorry to interrupt. Hopefully you received a message from us last week, asking if you could speak at an upcoming NERO lunch on Wednesday, Sept. 12; Tuesday, Sept. 24; or Tuesday, Oct 2. The Hyatt contacted us again to see if we could firm up the dates we are holding with them. I know you're extremely busy, but thought I would check back quickly to at least be sure you received the message and if you had any feel for whether any of these dates are possible. Thanks very much for your time and consideration.

Jo Ann

Jo Ann Pawela

National Energy Resources Organization

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 4/25/2018 5:25:28 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]
Subject: Accepted: Ethics Training with Justina F.
Location: WJC-N 3412

Start: 4/26/2018 8:00:00 PM
End: 4/26/2018 9:00:00 PM

Recurrence: (none)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/18/2018 7:19:27 PM
To: Molina, Michael [molina.michael@epa.gov]
Subject: RE: Introductions
Attachments: Wheeler draft recusal statement v2.docx

Hey Michael,

Here's the revised recusal statement based on some emails from Andrew Wheeler:

• **Deliberative Process / Ex. 5**

Already sent the revised document to him.

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Molina, Michael
Sent: Friday, May 18, 2018 3:11 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Introductions

Eric,

I just had my Ethics Briefing with Justina. At the end, we discussed all the AD's recusal as I know them (for now).

Thank you so much for your assistance,

Michael

From: Baptist, Erik
Sent: Wednesday, May 16, 2018 9:47 PM
To: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Michael,

My apologies – I was tied up in meetings all afternoon today. It might make sense to speak with both Kevin Minoli and me about the Deputy's recusal requirements, as Kevin is our Designated Agency Ethics Official.

I am happy to set up that meeting/call, if that works for you.

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Molina, Michael
Sent: Wednesday, May 16, 2018 1:17 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Subject: RE: Introductions

Thank you Erik,

Yes, I would like to talk to you in the near future about the recusal requirements for the Deputy. I have a basic understanding, but I would like to know a little more of the ins-and-outs.

Is there a time this afternoon that I could give you a call?

Michael D. Molina
Senior Advisor to the Deputy Administrator
U.S. Environmental Protection Agency
Molina.Michael@epa.gov
(202) 564-3972

From: Baptist, Erik
Sent: Tuesday, May 15, 2018 8:29 PM
To: Wooden-Aguilar, Helena <Wooden-Aguilar.Helena@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>
Subject: RE: Introductions

Helena,

Thanks for connecting Michael and me.

Michael,

It's nice to meet you over email. It would be great to connect in the near future.

Best,

Erik Baptist

Senior Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW

Washington, DC 20460
(202) 564-1689
baptist.erik@epa.gov

From: Wooden-Aguilar, Helena
Sent: Tuesday, May 15, 2018 5:05 PM
To: Baptist, Erik <Baptist.Erik@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>
Subject: Introductions

Hi Erik –

Michael has just started as Andrew's Senior Advisor and I wanted to do quick introductions so that if there are questions or items he would like to raise he has a great contact!

FYI – in AO we are currently working on a delegation issue for Andrew so I recommended having a conversation with you (or whoever you designate).

Thanks,

Helena

Helena Wooden-Aguilar
Acting Deputy Chief of Staff
Office of the Administrator
US Environmental Protection Agency
202-564-0792 (office)

Ex. 6 - Personal Privacy

 (mobile)
wooden-aguilar.helena@epa.gov

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 10:06:19 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: UPDATE: how OGC/Ethics spent our day

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 7:24:27 PM
To: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: draft updated recusal statement for Wheeler

Deliberative Process / Ex. 5

From: Griffo, Shannon
Sent: Monday, July 30, 2018 3:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: draft updated recusal statement for Wheeler

Looks good to me.

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Fugh, Justina
Sent: Monday, July 30, 2018 3:06 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: draft updated recusal statement for Wheeler

Thanks.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Look okay to you?

From: Griffo, Shannon
Sent: Monday, July 30, 2018 2:41 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: draft updated recusal statement for Wheeler

Here you go. I left my edits in Track Changes.

A few comments:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 7:23:01 PM
To: Jackson, Ryan [jackson.ryan@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: how OGC/Ethics spent our day
Attachments: Wheeler draft updated recusal statement 7_30_18.docx; Andrew Wheeler Updated Recusal Attachment.xlsx

Hi there,
We've been following up on a few items today:

Updated recusal for Andrew Wheeler

- See attached revision.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

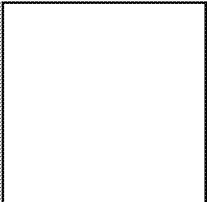
From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 8:52:42 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: RE: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: minoli.kevin [mailto:email_this@eenews.net]
Sent: Thursday, July 26, 2018 3:05 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

This Greenwire story was sent to you by: minoli.kevin@epa.gov

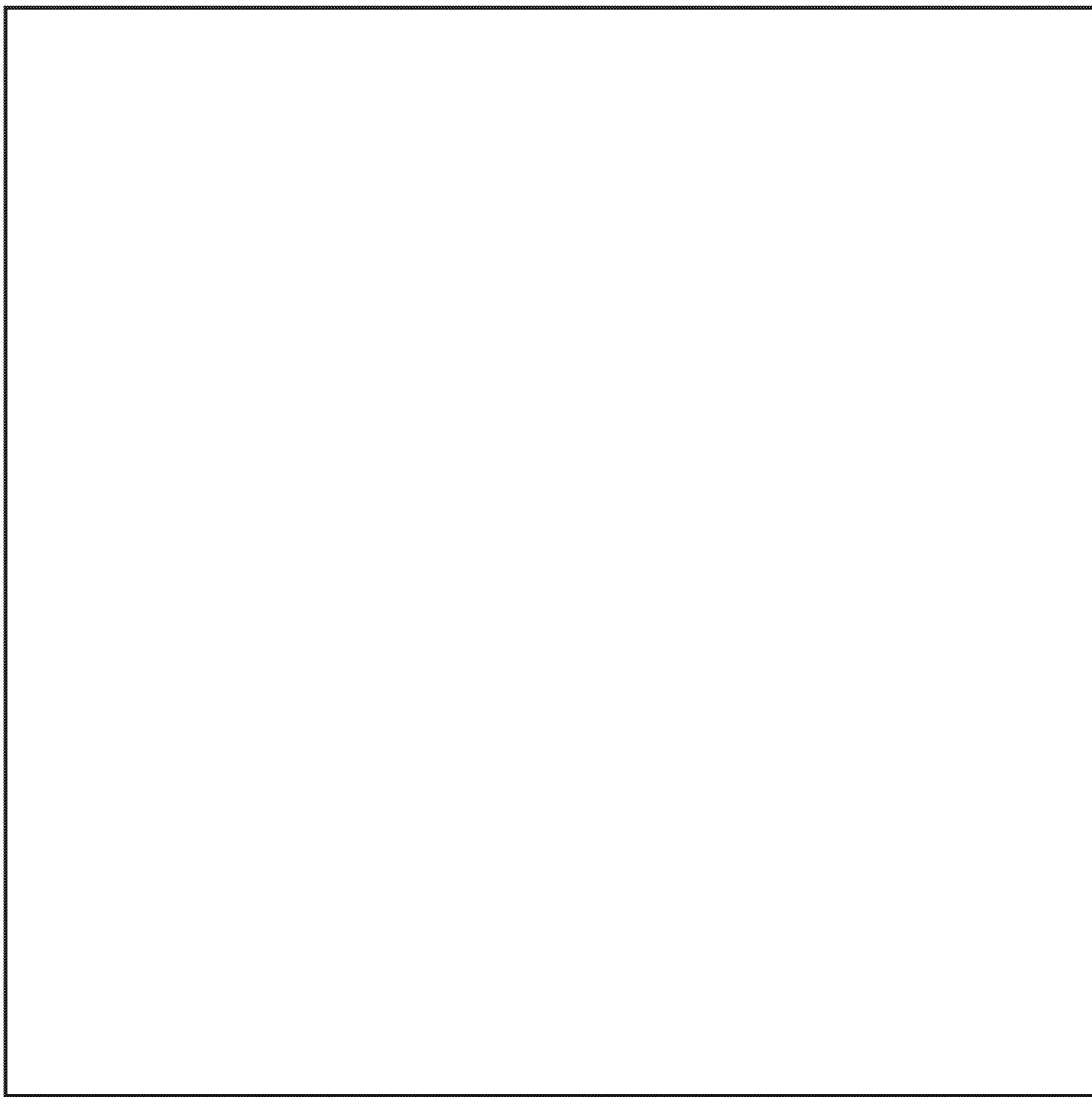


AN E&E NEWS PUBLICATION

EPA

Despite his assurances, Wheeler met with former clients

Corbin Hiar, E&E News reporter
Published: Thursday, July 26, 2018



Acting EPA Administrator Andrew Wheeler in his office at agency headquarters earlier this month. Patrick G. Ryan

Since Andrew Wheeler was sworn as EPA's second in command on April 20, the lobbying veteran has had at least three may have violated the Trump administration's ethics pledge and other promises he made to steer clear of potential conflicts

Wheeler — who became acting administrator after Scott Pruitt's July 6 resignation — has also attended other events that a company he is currently prohibited from getting involved with, according to an E&E News review of public documents.

The string of ethically questionable encounters stand in stark contrast to the acting EPA chief's claims that he is taking part in meetings with clients advance their interests.

"If I lobbied on something, I don't think it's appropriate for me to participate," Wheeler told Bloomberg News on June 27.

But the day before that interview, Wheeler's public calendar shows he participated in a "stakeholder meeting" with Darling International. The biodiesel producer paid Faegre Baker Daniels Consulting more than \$1.4 million over nine years for Wheeler and the firm's work on changes to the renewable fuel standard as well as renewable diesel and biodiesel tax incentives, according to lobbying disclosure on ProPublica.

Darling — which Faegre identified in disclosures as Darling International, the company's previous name — paid Faegre Baker Daniels Consulting more than \$1.4 million over nine years for Wheeler's other lobbying clients, except for coal company Murray Energy Corp.

Which Darling representatives Wheeler met and what they discussed isn't clear from his public calendar. Darling and EPA haven't provided details, and the agency hasn't responded to any of the Freedom of Information Act requests from E&E News for Wheeler's calendar.

But the Irving, Texas-based company has been strongly advocating for EPA to expand the annual amounts of biomass-based renewable diesel importers of petroleum-based diesel must use as part of the renewable fuels standard, or RFS. Wheeler will now have the authority to waive the RFS.

During his time as Pruitt's deputy, Wheeler's public calendar shows he had other so-called stakeholder meetings with agricultural companies Midland Co. (ADM), which Wheeler's October 2017 financial disclosure report notes paid his former firm more than \$500,000 for current EPA chief's "strategic advice and consulting," and the South Coast Air Quality Management District (SCAQMD), an agency that paid Faegre at least \$600,000 for lobbying between 2010 and 2012.

Wheeler's promises

Those meetings occurred even though Wheeler promised to avoid his former clients until April 20, 2020, or only meet with them in a "particular matter."

"I will not for a period of two years from the date of my appointment participate in any particular matter involving specific parties substantially related to my former employer or former clients," says the Trump ethics pledge Wheeler signed upon taking the job.

It's possible that the meetings with former clients weren't about a "particular matter" that Wheeler previously worked on for them, as determined from the public calendars, and EPA didn't provide additional information about the focus of the events.

The June 28 Darling meeting in particular may have violated another clause of the Trump ethics pledge, as well. It requires Wheeler also not to participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or in any area in which that particular matter falls."

Yet Faegre filed a termination report for Wheeler's lobbying work with Darling on May 31, 2016, less than 24 months before his appointment.

The focus of the Archer Daniels Midland meeting was "an RFS discussion," spokeswoman Jackie Anderson said in an email. The meeting discussed EPA-related issues with Mr. Wheeler."

She also said that ADM's "previous work with Mr. Wheeler was several years ago" — a claim contradicted by his financial records, which show he was "around un-related food-issues."

In public comments, ADM has been pressing EPA to reduce the number of RFS waivers granted to small refineries and ethanol producers and cellulosic biofuels to be used in the program. Earlier this week, Wheeler approved the use of sorghum oil as a feedstock for ethanol (The Daily, July 25).

Meanwhile, SCAQMD, which Wheeler only lobbied for in 2010, has its own issues to work out with EPA. For example, the agency is asking the U.S. Court of Appeals for the District of Columbia Circuit to rehear its challenge to EPA's implementation of the rule. EPA previously rejected SCAQMD's argument that changes in the rule made it harder for areas like Southern California's Coachella Valley to drift in from upwind areas — to show progress in achieving the standard (Greenwire, April 24).

That lawsuit didn't come up in SCAQMD Executive Officer Wayne Nastri's meeting with Wheeler, according to spokesmen.

"The topic of their discussion was SCAQMD's petition to US EPA to begin rulemaking for a new nationwide low-[nitrogen] diesel engine standard for trucks," Atwood added. "This proposed standard is a critical tool needed to bring our region into attainment with federal standards. It is supported by a broad coalition of local regulators and others, as it would provide significant air quality and economic benefits to the county."

The full guest list for Wheeler's meetings with former clients, which EPA also declined to provide, is another factor needed to make the process ethically sound. That's because in a separate EPA recusal statement Wheeler endorsed on May 24, he acknowledged, "If a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diverse perspective is represented and not the same united perspective."

No other parties are listed in Wheeler's public calendar for the Darling and SCAQMD meetings. The discussion with ADM, which he signed the recusal, included only two additional ethanol producers, POET LLC and Green Plains Inc., not the "four other parties" mentioned in the recusal.

Nevertheless, EPA argued that Wheeler's meetings with Darling, ADM and SCAQMD were all permissible because the agency's recusal statement. "Therefore, none of these entities presents any pledge issue for Mr. Wheeler," an agency spokesman said.

Lobbying experts, however, disagreed with the agency's interpretation of the Trump ethics pledge and questioned the usefulness of the statement.

"Andrew Wheeler is just playing it loose here," said Craig Holman, a lobbyist for the consumer advocacy group Public Citizen. "He's not working with any of his former clients."

Meetings with former clients could cast doubt on Wheeler's decisions at EPA, according to Thomas Susman, a former lobbyist. "The Manual," a guide to lobbying law and practice.

"The question in these revolving-door issues is, is he going to do [something] because he has come to see only one side of the coin? The possible problem is trying to basically come across in a favorable light for future employment opportunities. And a third party is the public."

Referring to the EPA chief directly, Susman said, "his past financial benefit and issue orientation based on his advocacy for ethanol, to me, provide an appearance of being unable to be neutral and represent the public, which he's paid by taxpayer dollars."

The perception of a conflict?

Meanwhile, other gatherings Wheeler attended as deputy administrator could have violated the spirit of his recusal agreement with him "from participating in any particular matter involving" International Paper Co. and seven other former clients until April 2017.

The paper giant is responsible for several toxic waste sites around the country and has set aside \$128 million to fund their cleanups. Three of those sites — including the San Jacinto River Waste Pits Superfund site damaged by Hurricane Harvey — could have "material" impacts on the International Paper's bottom line, the company said in its most recent annual report.

While Wheeler hasn't met directly with International Paper, he has attended events where Mark Sutton, the chairman and CEO of the world's biggest papermaker, played a prominent role.

On June 6, Wheeler's public calendar shows he delivered remarks to the Business Roundtable's Energy & Environment Committee, which is led by Sutton.

Then on June 28, he spoke at a meeting of the American Forest & Paper Association's board of directors, on which Sutton is the second vice chairman. The following day, he had a "stakeholder meeting" with the same forest products trade group.

EPA and International Paper both noted that Sutton wasn't at the June 29 meeting. Even if he had been, though, Wheeler's recusal agreement according to the agency.

"The meetings were not in fact one-on-one meetings with International Paper as a specific party," the EPA spokesman said. "Clearly indicates, these were meetings with or remarks given to organizations that were attended by more than a handful of people. Sutton."

The Business Roundtable committee meeting Sutton led "consisted of a broad update on EPA's agenda and priorities," Interior Secretary Tom Ryan added. "No company specific issues were raised at any time."

Still, Holman thinks questions about Wheeler's interactions with his roster of nearly a dozen publicly disclosed former clients are warranted.

"As soon as he stepped into the EPA, he was a conflict of interest," the Public Citizen lobbyist said.

In the end, whether or not Wheeler is strictly abiding by the letter of his ethics promises may be beside the point to the general public, says Susman. Voters elected President Trump so he would drain Washington's ethical swamp, not reinforce it.

"There are things that you shouldn't do that may be legal," he said.

The Darling meeting in particular "would certainly come close to if not be over the line for someone to be involved with a firm that has received money from a client and then go into government and meet with that client on matters of interest to the agency," Susman said.

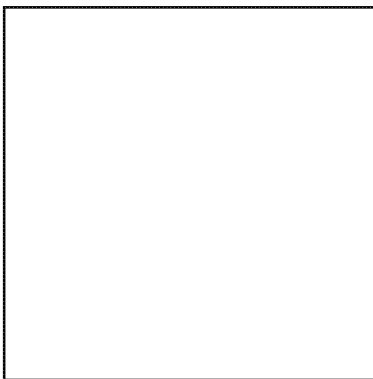
Reporters Mike Soraghan and Kevin Bogardus contributed.

Want to read more stories like this?

[Click here](#) to start a free trial to E&E – the best way to track policy and markets.

ABOUT GREENWIRE – THE LEADER IN ENERGY AND ENVIRONMENT NEWS

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all of today's major energy and environmental news, Greenwire provides an average of more than 20 stories a day. Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act litigation. Greenwire publishes daily at 1 p.m.



E&E News
122 C Street NW 7th Floor Washington, DC 20001
Phone: 202-628-6500 Fax: 202-737-5299
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of Environment & Energy Publishing, LLC. [Click here](#) to view our privacy policy.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 8:34:40 PM
To: Hewitt, James [hewitt.james@epa.gov]
CC: White, Elizabeth [white.elizabeth@epa.gov]; Abboud, Michael [abboud.michael@epa.gov]; Konkus, John [konkus.john@epa.gov]; Molina, Michael [molina.michael@epa.gov]; Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: FOR REVIEW//Wheeler statement

Hi there,
See my comments below.
Justina

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 4:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <konkus.john@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: RE: FOR REVIEW//Wheeler statement

Deliberative Process / Ex. 5

From: Hewitt, James
Sent: Thursday, July 26, 2018 3:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: White, Elizabeth <white.elizabeth@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Konkus, John <Konkus.John@epa.gov>; Molina, Michael <molina.michael@epa.gov>
Subject: FOR REVIEW//Wheeler statement

Hi Justina,

Wanted to confirm this is correct before we send to a reporter:

Deliberative Process / Ex. 5

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 5/18/2018 7:05:12 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
CC: Molina, Michael [molina.michael@epa.gov]
Subject: RE: Ethics Agreement
Attachments: Wheeler draft refusal statement v2.docx

Hi,

I know!

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wheeler, Andrew
Sent: Friday, May 18, 2018 1:14 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Ethics Agreement

I read over it,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Friday, May 18, 2018 10:56 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Wheeler, Andrew <wheeler.andrew@epa.gov>
Subject: RE: Ethics Agreement

Hi there,

Actually, earlier today, I dropped off a package of materials with Carly:

- Draft refusal
- Cheat sheet for answering the ethics agreement compliance form
- Advice about the restaurant, Lucky Buns

Plus, I will see Michael Molina early this afternoon for his new employee ethics orientation.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Minoli, Kevin
Sent: Friday, May 18, 2018 10:53 AM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Ethics Agreement

Andrew- Justina and I just discussed the plan to get you the draft yesterday, in fact, and so we expect to be able to have a draft to you today;

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On May 18, 2018, at 8:15 AM, Wheeler, Andrew <wheeler.andrew@epa.gov> wrote:

Can I get the next draft of my ethics agreement back? I want to finalize it and give it to my assistants.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thank you.

Andrew R. Wheeler
Deputy Administrator
U.S. Environmental Protection Agency
(202) 564-4711

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 1:16:31 PM
To: Konkus, John [konkus.john@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: final answer

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/26/2018 1:45:36 AM
To: Konkus, John [konkus.john@epa.gov]
CC: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: RE: Wheeler meetings with former clients

John,
Shannon and I talked about this, and **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 I'm asking Shannon to review this revision below since she starts work very early.
Justina

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Wednesday, July 25, 2018 4:00 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Would you both mind taking a look at this draft statement:

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 3:02 PM
To: Konkus, John <konkus.john@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Wheeler meetings with former clients

Hi John,

Deliberative Process / Ex. 5

Am copying Shannon Griffo of EPA Ethics as she has a lot of experience with the pledge.
Justina

From: Konkus, John
Sent: Wednesday, July 25, 2018 2:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Wheeler meetings with former clients

From: Corbin Hiar [<mailto:chiar@eenews.net>]
Sent: Wednesday, July 25, 2018 1:56 PM
To: Press <Press@epa.gov>
Subject: Wheeler meetings with former clients

Hi, we're planning to report in tomorrow's Greenwire on several meetings Wheeler has had with four former clients that appear to violate the letter or spirit of the Trump ethics pledge or EPA recusal statement he signed.

The meetings in focus involve Darling Ingredients (June 26), Archer Daniels Midland (May 24), the South Coast Air Quality Management District (June 22) and Mark Sutton, the chairman and CEO of International Paper (June 6, June 28 and 29).

In signing the ethics pledge, Wheeler vowed to "not for a period of two years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients." All of the previously mentioned meetings with former clients took place during his first three months in office.

The pledge also requires former lobbyists like Wheeler to not participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls." Faegre filed a termination report for Wheeler's lobbying work with Darling on July 19, 2016, less than 24 months before his EPA public calendar shows he met with his former client.

And in his EPA recusal statement, Wheeler acknowledged that "If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective." None of the meetings appears to have included five parties.

With all that in mind, how do these meetings not violate the ethics pledge? Were there four other parties in the meetings that weren't listed in Wheeler's public calendar? If not, how did those meetings not violate his recusal statement, particularly the ones with Sutton, since the statement specifically prohibits him "from participating in any particular matter involving" International Paper? Has Wheeler obtained ethics waivers to participate in any meetings, particularly the ones mentioned above?

Also, does Wheeler still stand by his statement, made to Bloomberg on June 27, that "If I lobbied on something, I don't think it's appropriate for me to participate"?

Please get back to me with any additional information or comments by Thursday at 10 a.m.

Best, C

Corbin Hiar

E&E News Reporter

O: 202 446 0438

M: Personal Phone / Ex. 6

T: @corbinhiar

Contact me securely via Signal, WhatsApp or corbin.hiar@protonmail.com

E&E NEWS

122 C St NW, 7th Fl; Washington, DC, 20001

The leader in energy and environment news

Greenwire, E&E Daily, E&E News PM, Climatewire, Energywire

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 12:09:34 AM
To: Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: FW: do you know the date that Andrew Wheeler was sworn in as Deputy Administrator?

Yep, you're right, it's April 20.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Carr, Dorothy
Sent: Sunday, July 29, 2018 7:59 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: do you know the date that Andrew Wheeler was sworn in as Deputy Administrator?

It's April 20, 2018.

Take care,
Dorothy

Sent from my iPhone

On Jul 27, 2018, at 4:05 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi,
I need to draft a new recusal statement for Andrew Wheeler in his new position. To do so, I need to verify, please, the date that he was sworn in as a federal employee (not his confirmation date). Do you have that?
Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/28/2018 5:36:31 AM
To: Molina, Michael [molina.michael@epa.gov]; Burton, Tamika [burton.tamika@epa.gov]; Dickerson, Aaron [dickerson.aaron@epa.gov]
CC: Keith, Jennie [Keith.Jennie@epa.gov]
Subject: FW: Ethics advice concerning your invitation to the ELI dinner

Hi,

Just letting you know that, on behalf of OGC/Ethics, I cleared Mr. Wheeler's attendance at this event if he wants to attend.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Saturday, July 28, 2018 1:34 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Keith, Jennie <Keith.Jennie@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
Subject: Ethics advice concerning your invitation to the ELI dinner

Hi there,

OGC/Ethics understands that you have received or will soon receive an invitation from the Environmental Law Institute (ELI) to be its guest at its annual awards dinner to be held this year on October 23, 2018 at the Omni Shoreham Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump ethics pledge that you signed.

This event qualifies for the Widely-Attended-Gathering gift exception and the donor is not a federally registered lobbyist. Thus, OGC/Ethics determines that your attendance at the event is in the Agency's interest because it will further agency programs and operations. Should you attend this event, you will NOT be required to report this as a gift on your financial disclosure report form because the gift is valued at \$275, which is BELOW the reporting threshold.

Please note: this approval applies only to invitations from ELI itself. Any invitations from other sources will require separate determinations by either OGC or the appropriate Deputy Ethics Official. This determination covers you only -- the invitation is not transferable and is not intended for more than just one attendee.

Acceptance of Free Attendance to a Dinner and Fundraiser (WAG rule)

The gift offered is an evening reception and dinner sponsored by ELI. Because the organization is offering you a complimentary ticket, we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you because of your official position. In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance if you wish to go.

Limitations Due to the Fundraiser Event

Please note that this event is a fundraiser. Therefore, ELI cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. We have confirmed with ELI that you will be placed by ELI and not seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/28/2018 5:33:38 AM
To: Bodine, Susan [bodine.susan@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]; Traylor, Patrick [traylor.patrick@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Ross, David P [ross.davidp@epa.gov]; Wheeler, Andrew [wheeler.andrew@epa.gov]
CC: Keith, Jennie [Keith.Jennie@epa.gov]; Duross, Jeanne [Duross.Jeanne@epa.gov]
Subject: Ethics advice concerning your invitation to the ELI dinner

Hi there,

OGC/Ethics understands that you have received or will soon receive an invitation from the Environmental Law Institute (ELI) to be its guest at its annual awards dinner to be held this year on October 23, 2018 at the Omni Shoreham Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump ethics pledge that you signed.

This event qualifies for the Widely-Attended-Gathering gift exception and the donor is not a federally registered lobbyist. Thus, OGC/Ethics determines that your attendance at the event is in the Agency's interest because it will further agency programs and operations. Should you attend this event, you will NOT be required to report this as a gift on your financial disclosure report form because the gift is valued at \$275, which is BELOW the reporting threshold.

Please note: this approval applies only to invitations from ELI itself. Any invitations from other sources will require separate determinations by either OGC or the appropriate Deputy Ethics Official. This determination covers you only -- the invitation is not transferable and is not intended for more than just one attendee.

Acceptance of Free Attendance to a Dinner and Fundraiser (WAG rule)

The gift offered is an evening reception and dinner sponsored by ELI. Because the organization is offering you a complimentary ticket, we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you because of your official position. In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance if you wish to go.

Limitations Due to the Fundraiser Event

Please note that this event is a fundraiser. Therefore, ELI cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. We have confirmed with ELI that you will be placed by ELI and not seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/27/2018 10:02:42 PM
To: Konkus, John [konkus.john@epa.gov]
Subject: RE: House Democrats call for investigation of Wheeler meetings with former clients

Deliberative Process / Ex. 5

From: Konkus, John
Sent: Friday, July 27, 2018 5:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: House Democrats call for investigation of Wheeler meetings with former clients

Deliberative Process / Ex. 5

From: POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]
Sent: Friday, July 27, 2018 5:48 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: House Democrats call for investigation of Wheeler meetings with former clients

By Emily Holden

07/27/2018 05:46 PM EDT

House Democrats are asking the Office of Government Ethics to review acting EPA Administrator Andrew Wheeler's meetings with companies that employed him as a lobbyist.

Rep. Don Beyer (D-Va.) and several colleagues sent a letter to the independent agency today following reporting from E&E News that Wheeler met with at least three former clients in recent months as deputy administrator. They pointed to previous Administrator Scott Pruitt's resignation "under a cloud of ethical controversy" among the reasons for their concern.

"That context, Wheeler's past work as a coal lobbyist, and the many conflicts of interest which that work naturally presents to his leadership of the EPA demand that his meetings and communications be carefully scrutinized so that he is held to the highest ethical standard," wrote Beyer and Reps. Raja Krishnamoorthi (D-Ill.), Pramila Jayapal (D-Wash.), and Jamie Raskin (D-Md.).

EPA ethics reviews essentially operate on the honor system to ensure Wheeler is abiding by the Trump administration's pledge to avoid dealing with companies for whom he lobbied within the previous two years.

"We rely on the disclosures of an individual," ethics official Justina Fugh told POLITICO.

But public forms list Wheeler as a lobbyist for former clients less than two years before he was sworn in as deputy administrator on April 20. For example, Wheeler's former firm, Faegre Baker Daniels Consulting, did not disclose that it stopped lobbying for Darling Ingredients until May 31, 2016.


Fugh said Darling was not on a list Wheeler had submitted of lobbying clients in the prior two years. She said he also can meet with past clients that are subject to the pledge in certain group settings.


WHAT'S NEXT: The Democrats asked OGE to determine whether Wheeler had violated his pledge and to clarify its terms.


To view online:

<https://subscriber.politicopro.com/energy/whiteboard/2018/07/house-democrats-call-for-investigation-of-wheeler-meetings-with-former-clients-1680334>

Was this Pro content helpful? Tell us what you think in one click.


Yes, very


Somewhat


Neutral


Not really


Not at all

You received this POLITICO Pro content because your customized settings include: Energy: EPA. To change your alert settings, please go to <https://subscriber.politicopro.com/settings>

POLITICOPRO

This email was sent to konkus.john@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 6/6/2018 3:48:05 PM
To: Abboud, Michael [abboud.michael@epa.gov]
Subject: here you go.
Attachments: DA Signed Recusal Statement .pdf

Enjoy!

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 6/14/2018 7:29:12 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Fwd: APPROVAL: Clarification re Andrew Wheeler, Murray Energy
Attachments: DA Signed Recusal Statement .pdf; ATT00001.htm

Importance: High
Flag: Follow up

Sent from my iPhone

Begin forwarded message:

From: "Wilcox, Jahan" <wilcox.jahan@epa.gov>
Date: June 14, 2018 at 1:10:36 PM EDT
To: "Wheeler, Andrew" <wheeler.andrew@epa.gov>, "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Cc: "Abboud, Michael" <abboud.michael@epa.gov>, "Hewitt, James" <hewitt.james@epa.gov>
Subject: APPROVAL: Clarification re Andrew Wheeler, Murray Energy

Deliberative Process / Ex. 5

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:) [<mailto:jdlouhy1@bloomberg.net>]
Sent: Thursday, June 14, 2018 12:10 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: Clarification re Andrew Wheeler, Murray Energy

Michael, was there any update on this? (I'm still a few days out from definitely needing it).

Jennifer A. Dlouhy
jdlouhy1@bloomberg.net / **Personal Email / Ex. 6**

Personal Email / Ex. 6

Desk: 202.807.2159

Cell/Text/Signal: **Personal Phone / Ex. 6**

Twitter: @jendlouhyhc

Stories: <http://bloom.bg/23Crpvk>

From: abboud.michael@epa.gov At: 06/06/18 12:07:12

To: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
Cc: wilcox.jahan@epa.gov
Subject: RE: Clarification re Andrew Wheeler, Murray Energy

Hey Jen we should have something to you shortly. Are you working on a deadline?

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
[mailto:jdlohy1@bloomberg.net]
Sent: Wednesday, June 6, 2018 11:36 AM
To: Press <Press@epa.gov>
Subject: Clarification re Andrew Wheeler, Murray Energy

Good morning, EPA press.

Can you clarify how Andrew Wheeler is handling any matters involving Murray Energy? Does he have a waiver to engage on issues involving coal and/or Murray Energy, to the extent they arise? Has he recused himself?

Thanks,

Jen.

—
Jennifer A. Dlouhy

jdlohy1@bloomberg.net

Personal Email / Ex. 6

Personal Email / Ex. 6

Desk: 202.807.2159

Cell/Text/Signal: Personal Phone / Ex. 6

Twitter: @jendlouhyhc

Stories: <http://bloom.bg/23Crpvk>

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/26/2018 9:14:52 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Re: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

Importance: High
Flag: Follow up

Thank you. **Deliberative Process / Ex. 5** Thanks for all your help.

Sent from my iPhone

On Jul 26, 2018, at 5:11 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Matt- **Deliberative Process / Ex. 5** Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

From: Fugh, Justina
Sent: Thursday, July 26, 2018 4:53 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: minoli.kevin [mailto:email_this@eenews.net]

Sent: Thursday, July 26, 2018 3:05 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

This Greenwire story was sent to you by: minoli.kevin@epa.gov

<WRD272.jpg>

AN E&E NEWS PUBLICATION

EPA

Despite his assurances, Wheeler met with former clients

Corbin Hiar, E&E News reporter

Published: Thursday, July 26, 2018

<image001.jpg>

Acting EPA Administrator Andrew Wheeler in his office at agency headquarters earlier this month. Patrick G. Ryan

Since Andrew Wheeler was sworn as EPA's second in command on April 20, the lobbying veteran has had at least one meeting with a former client. EPA may have violated the Trump administration's ethics pledge and other promises he made to steer clear of potential conflicts of interest.

Wheeler — who became acting administrator after Scott Pruitt's July 6 resignation — has also attended other events for a company he is currently prohibited from getting involved with, according to an E&E News review of public documents.

The string of ethically questionable encounters stand in stark contrast to the acting EPA chief's claims that he is taking steps to ensure former clients advance their interests.

"If I lobbied on something, I don't think it's appropriate for me to participate," Wheeler told Bloomberg News on July 24.

But the day before that interview, Wheeler's public calendar shows he participated in a "stakeholder meeting" with a former client. The biodiesel producer paid Faegre Baker Daniels Consulting more than \$1.4 million over nine years for Wheeler's help with changes to the renewable fuel standard as well as renewable diesel and biodiesel tax incentives, according to lobbying disclosures on ProPublica.

Darling — which Faegre identified in disclosures as Darling International, the company's previous name — paid Wheeler's other lobbying clients, except for coal company Murray Energy Corp.

Which Darling representatives Wheeler met and what they discussed isn't clear from his public calendar. Darling declined to provide details, and the agency hasn't responded to any of the Freedom of Information Act requests from E&E News for documents related to the calendar.

But the Irving, Texas-based company has been strongly advocating for EPA to expand the annual amounts of bio-based diesel that importers of petroleum-based diesel must use as part of the renewable fuels standard, or RFS. Wheeler will now

During his time as Pruitt's deputy, Wheeler's public calendar shows he had other so-called stakeholder meetings with Midland Co. (ADM), which Wheeler's October 2017 financial disclosure report notes paid his former firm more than \$1 million for current EPA chief's "strategic advice and consulting," and the South Coast Air Quality Management District (SCAQMD), an agency that paid Faegre at least \$600,000 for lobbying between 2010 and 2012.

Wheeler's promises

Those meetings occurred even though Wheeler promised to avoid his former clients until April 20, 2020, or only months after he was appointed.

"I will not for a period of two years from the date of my appointment participate in any particular matter involving substantial interests of, or substantially related to my former employer or former clients," says the Trump ethics pledge Wheeler signed upon appointment.

It's possible that the meetings with former clients weren't about a "particular matter" that Wheeler previously worked on, as he didn't determine from the public calendars, and EPA didn't provide additional information about the focus of the events.

The June 28 Darling meeting in particular may have violated another clause of the Trump ethics pledge, as well. It also says he will not participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment in an area in which that particular matter falls."

Yet Faegre filed a termination report for Wheeler's lobbying work with Darling on May 31, 2016, less than 24 months after he was appointed.

The focus of the Archer Daniels Midland meeting was "an RFS discussion," spokeswoman Jackie Anderson said. She also said ADM discussed EPA-related issues with Mr. Wheeler."

She also said that ADM's "previous work with Mr. Wheeler was several years ago" — a claim contradicted by his public calendar, which shows he was "around un-related food-issues."

In public comments, ADM has been pressing EPA to reduce the number of RFS waivers granted to small refiners and cellulosic biofuels to be used in the program. Earlier this week, Wheeler approved the use of sorghum oil as a biofuel (see Daily, July 25).

Meanwhile, SCAQMD, which Wheeler only lobbied for in 2010, has its own issues to work out with EPA. For example, it is asking the U.S. Court of Appeals for the District of Columbia Circuit to rehear its challenge to EPA's implementation of the rule. It previously rejected SCAQMD's argument that changes in the rule made it harder for areas like Southern California to meet the standard. It drifts in from upwind areas — to show progress in achieving the standard (Greenwire, April 24).

That lawsuit didn't come up in SCAQMD Executive Officer Wayne Nastri's meeting with Wheeler, according to spokeswoman Atwood.

"The topic of their discussion was SCAQMD's petition to US EPA to begin rulemaking for a new nationwide low-sulfur diesel standard for trucks," Atwood added. "This proposed standard is a critical tool needed to bring our region into attainment with federal standards. It is supported by a broad coalition of local regulators and others, as it would provide significant air quality and economic benefits to the county."

The full guest list for Wheeler's meetings with former clients, which EPA also declined to provide, is another fact that makes the situation ethically sound. That's because in a separate EPA recusal statement Wheeler endorsed on May 24, he acknowledged that if a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure a diverse perspective is represented and not the same united perspective."

No other parties are listed in Wheeler's public calendar for the Darling and SCAQMD meetings. The discussion wheel he signed the recusal, included only two additional ethanol producers, POET LLC and Green Plains Inc., not the 'other parties' mentioned in the recusal.

Nevertheless, EPA argued that Wheeler's meetings with Darling, ADM and SCAQMD were all permissible because they were disclosed in his recusal statement. "Therefore, none of these entities presents any pledge issue for Mr. Wheeler," an agency spokesman said.

Lobbying experts, however, disagreed with the agency's interpretation of the Trump ethics pledge and questioned the agency's recusal statement.

"Andrew Wheeler is just playing it loose here," said Craig Holman, a lobbyist for the consumer advocacy group Public Citizen. "He's not working with any of his former clients."

Meetings with former clients could cast doubt on Wheeler's decisions at EPA, according to Thomas Susman, a former EPA lawyer and author of "The Manual," a guide to lobbying law and practice.

"The question in these revolving-door issues is, is he going to do [something] because he has come to see only one side of the story? The possible problem is trying to basically come across in a favorable light for future employment opportunities. And that's not in the public's best interest."

Referring to the EPA chief directly, Susman said, "his past financial benefit and issue orientation based on his advocacy for his former clients to me, provide an appearance of being unable to be neutral and represent the public, which he's paid by taxpayers."

The perception of a conflict?

Meanwhile, other gatherings Wheeler attended as deputy administrator could have violated the spirit of his recusal statement, which barred him "from participating in any particular matter involving" International Paper Co. and seven other former clients of the agency.

The paper giant is responsible for several toxic waste sites around the country and has set aside \$128 million to fund cleanup efforts. Three of those sites — including the San Jacinto River Waste Pits Superfund site damaged by Hurricane Harvey — could have "material" impacts on the International Paper's bottom line, the company said in its most recent annual report.

While Wheeler hasn't met directly with International Paper, he has attended events where Mark Sutton, the chairman of the company's papermaker, played a prominent role.

On June 6, Wheeler's public calendar shows he delivered remarks to the Business Roundtable's Energy & Environment Roundtable. Sutton.

Then on June 28, he spoke at a meeting of the American Forest & Paper Association's board of directors, on which Sutton was also present. The following day, he had a "stakeholder meeting" with the same forest products trade association and another group.

EPA and International Paper both noted that Sutton wasn't at the June 29 meeting. Even if he had been, though, according to the agency.

"The meetings were not in fact one-on-one meetings with International Paper as a specific party," the EPA spokesman clearly indicates, these were meetings with or remarks given to organizations that were attended by more than a handful of Sutton."

The Business Roundtable committee meeting Sutton led "consisted of a broad update on EPA's agenda and priorities," Tom Ryan added. "No company specific issues were raised at any time."

Still, Holman thinks questions about Wheeler's interactions with his roster of nearly a dozen publicly disclosed former clients.

"As soon as he stepped into the EPA, he was a conflict of interest," the Public Citizen lobbyist said.

In the end, whether or not Wheeler is strictly abiding by the letter of his ethics promises may be beside the point to some. Susman. Voters elected President Trump so he would drain Washington's ethical swamp, not reinforce it.

"There are things that you shouldn't do that may be legal," he said.

The Darling meeting in particular "would certainly come close to if not be over the line for someone to be involved in a conflict of money from a client and then go into government and meet with that client on matters of interest to the agency."

Reporters Mike Soraghan and Kevin Bogardus contributed.

Want to read more stories like this?

[Click here](#) to start a free trial to E&E -- the best way to track policy and markets.

ABOUT GREENWIRE -- THE LEADER IN ENERGY AND ENVIRONMENT NEWS

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all of today's energy and environmental news, Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act implementation. Greenwire publishes daily at 1 p.m.

<image003.jpg>

E&E News
122 C Street NW 7th Floor Washington, DC 20004
Phone: 202-628-6500 Fax: 202-737-5200
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of Environment & Energy Publishing, LLC. [Click here to view our privacy policy.](#)

Message

From: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Sent: 7/24/2018 3:04:35 PM
To: Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Fwd: NYT request - questions on Mr. Wheeler's recusals

Importance: High
Flag: Follow up

FYI

Sent from my iPhone

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
Date: July 24, 2018 at 10:22:10 AM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Cc: "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: FW: NYT request - questions on Mr. Wheeler's recusals

Matt: As we discussed a few weeks back...

From: Friedman, Lisa [<mailto:lisa.friedman@nytimes.com>]
Sent: Tuesday, July 24, 2018 10:20 AM
To: Konkus, John <konkus.john@epa.gov>; Press <Press@epa.gov>
Subject: NYT request - questions on Mr. Wheeler's recusals

Hi John,

I'm sorry not to have heard back from you since our July 11 request to schedule a discussion with Justina Fugh about Acting Administrator Wheeler's recusal decisions.

I'm including here a number of specific questions that I'll need answers to by 10 a.m. tomorrow.

1. The lobbying disclosure act requires "specific issues that have already been addressed or are likely to be addressed in lobbying activities." But Mr. Wheeler's lobbying disclosures for many of his clients over the past 2 years only cite generalities like 'energy and environment issues.'

I'd like to know the specific bills or issues Mr. Wheeler lobbied on and before which agencies he lobbied in the past two years for the following clients: Murray Energy; Darling Ingredients; Xcel Energy; Energy Fuels Resources; and Sargento Foods.

2. Can Mr. Wheeler describe his full involvement in either conceptualizing, writing or otherwise lobbying on the 'Action Plan' memo that Mr. Murray delivered to several members of the Trump administration in March 2017.

3. According to emails released by DOE, Mr. Wheeler arranged the meeting with Sec. Perry at which Mr. Murray delivered his action plan. Under the lobbying disclosure act, that's considered lobbying.

Can Mr. Wheeler explain then the reasoning behind not recusing himself from the issues outlined in the letter that are direct EPA issues including effluent guidelines; endangerment finding; Paris agreement; ozone regs; staffing levels of the EPA; and cross-state air pollution regs.

4. What was Mr. Wheeler's involvement in the nearly identical memo dated March 28, 2017 to former Administrator Scott Pruitt?

4. What was Mr. Wheeler's involvement in the proposed executive orders that Mr. Murray drafted regarding effluent guidelines; MACT rule; NAAQS; Cross-State Air Pollution Rule; and the Paris Agreement?

Finally, I'd like to reiterate that we'd prefer to do this in person, but two weeks is a more than reasonable time for us to have waited. Thank you again,

Lisa

--

Lisa Friedman
Reporter, New York Times
(202) 862-0306 office

Personal Phone / Ex. 6 cell

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 6/14/2018 7:35:00 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Statement

As stated in his May 24, 2018, Recusal Statement, the Deputy Administrator is recused from specific party matters involving former clients, including Murray Energy. until April 28. 2020.

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 7/26/2018 9:29:46 PM
To: Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
Subject: Re: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

Deliberative Process / Ex. 5

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Jul 26, 2018, at 5:14 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

Thank you.
all your help.

Deliberative Process / Ex. 5

Thanks for

Sent from my iPhone

On Jul 26, 2018, at 5:11 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Matt-

Deliberative Process / Ex. 5

Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

From: Fugh, Justina
Sent: Thursday, July 26, 2018 4:53 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: minoli.kevin [mailto:email_this@eenews.net]

Sent: Thursday, July 26, 2018 3:05 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: From Greenwire -- EPA: Despite his assurances, Wheeler met with former clients

This Greenwire story was sent to you by: minoli.kevin@epa.gov

<WRD272.jpg>

AN E&E NEWS PUBLICATION

EPA

Despite his assurances, Wheeler met with former clients

Corbin Hiar, E&E News reporter

Published: Thursday, July 26, 2018

<image001.jpg>

Acting EPA Administrator Andrew Wheeler in his office at agency headquarters earlier this month. Patrick G. Ryan

Since Andrew Wheeler was sworn as EPA's second in command on April 20, the lobbying veteran has had to navigate a complex web of ethics rules. He may have violated the Trump administration's ethics pledge and other promises he made to steer clear of

Wheeler — who became acting administrator after Scott Pruitt's July 6 resignation — has also attended or participated in meetings with a company he is currently prohibited from getting involved with, according to an E&E News review of public calendars.

The string of ethically questionable encounters stand in stark contrast to the acting EPA chief's claims that the agency's actions are in the public interest and that its clients advance their interests.

"If I lobbied on something, I don't think it's appropriate for me to participate," Wheeler told Bloomberg News.

But the day before that interview, Wheeler's public calendar shows he participated in a "stakeholder meeting" with Archer Daniels Midland. The biodiesel producer paid Faegre Baker Daniels Consulting more than \$1.4 million over nine years for various services, including changes to the renewable fuel standard as well as renewable diesel and biodiesel tax incentives, according to ProPublica.

Darling — which Faegre identified in disclosures as Darling International, the company's previous name — is one of Wheeler's other lobbying clients, except for coal company Murray Energy Corp.

Which Darling representatives Wheeler met and what they discussed isn't clear from his public calendar. In some cases, details, and the agency hasn't responded to any of the Freedom of Information Act requests from E&E News for those calendar.

But the Irving, Texas-based company has been strongly advocating for EPA to expand the annual amount of renewable fuels that importers of petroleum-based diesel must use as part of the renewable fuels standard, or RFS. Wheeler visited the company's headquarters in 2017.

During his time as Pruitt's deputy, Wheeler's public calendar shows he had other so-called stakeholder meetings. In October 2017, Midland Co. (ADM), which Wheeler's October 2017 financial disclosure report notes paid his former firm for "strategic advice and consulting," and the South Coast Air Quality Management District, an agency that paid Faegre at least \$600,000 for lobbying between 2010 and 2012.

Wheeler's promises

Those meetings occurred even though Wheeler promised to avoid his former clients until April 20, 2020, or two years after he took office.

"I will not for a period of two years from the date of my appointment participate in any particular matter involving or substantially related to my former employer or former clients," says the Trump ethics pledge Wheeler signed.

It's possible that the meetings with former clients weren't about a "particular matter" that Wheeler previously defined. But it's hard to determine from the public calendars, and EPA didn't provide additional information about the focus of the meetings.

The June 28 Darling meeting in particular may have violated another clause of the Trump ethics pledge, which also says not to participate "in any particular matter on which I lobbied within the 2 years before the date of my appointment or in any area in which that particular matter falls."

Yet Faegre filed a termination report for Wheeler's lobbying work with Darling on May 31, 2016, less than a year after he joined the firm.

The focus of the Archer Daniels Midland meeting was "an RFS discussion," spokeswoman Jackie Anders said. The meeting discussed EPA-related issues with Mr. Wheeler.

She also said that ADM's "previous work with Mr. Wheeler was several years ago" — a claim contradicted by a claim that ADM's work was "around un-related food-issues."

In public comments, ADM has been pressing EPA to reduce the number of RFS waivers granted to small ethanol producers and cellulosic biofuels to be used in the program. Earlier this week, Wheeler approved the use of sorghum for ethanol (The Daily, July 25).

Meanwhile, SCAQMD, which Wheeler only lobbied for in 2010, has its own issues to work out with EPA. EPA is asking the U.S. Court of Appeals for the District of Columbia Circuit to rehear its challenge to EPA's implementation of the rule. EPA previously rejected SCAQMD's argument that changes in the rule made it harder for areas like Southern California to drift in from upwind areas — to show progress in achieving the standard (Greenwire, April 24).

That lawsuit didn't come up in SCAQMD Executive Officer Wayne Nastri's meeting with Wheeler, according to Atwood.

"The topic of their discussion was SCAQMD's petition to US EPA to begin rulemaking for a new nationwide standard for trucks," Atwood added. "This proposed standard is a critical tool needed to bring our region into attainment. It is supported by a broad coalition of local regulators and others, as it would provide significant air quality benefits to the county."

The full guest list for Wheeler's meetings with former clients, which EPA also declined to provide, is another question. "It's not ethically sound. That's because in a separate EPA recusal statement Wheeler endorsed on May 24, he said that if a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that all interests are represented and not the same united perspective."

No other parties are listed in Wheeler's public calendar for the Darling and SCAQMD meetings. The disclosure that Wheeler signed the recusal, included only two additional ethanol producers, POET LLC and Green Plains Inc., in addition to the recusal.

Nevertheless, EPA argued that Wheeler's meetings with Darling, ADM and SCAQMD were all permissible under his recusal statement. "Therefore, none of these entities presents any pledge issue for Mr. Wheeler," an agency spokesman said.

Lobbying experts, however, disagreed with the agency's interpretation of the Trump ethics pledge and questioned the agency's statement.

"Andrew Wheeler is just playing it loose here," said Craig Holman, a lobbyist for the consumer advocacy group Public Citizen, "working with any of his former clients."

Meetings with former clients could cast doubt on Wheeler's decisions at EPA, according to Thomas Susman, author of "The Lobbying Manual," a guide to lobbying law and practice.

"The question in these revolving-door issues is, is he going to do [something] because he has come to see this as a possible problem is trying to basically come across in a favorable light for future employment opportunities with the public."

Referring to the EPA chief directly, Susman said, "his past financial benefit and issue orientation based on his past work to me, provide an appearance of being unable to be neutral and represent the public, which he's paid by the government."

The perception of a conflict?

Meanwhile, other gatherings Wheeler attended as deputy administrator could have violated the spirit of his ethics rule, which prohibited him "from participating in any particular matter involving" International Paper Co. and seven other former clients.

The paper giant is responsible for several toxic waste sites around the country and has set aside \$128 million for environmental cleanups. Three of those sites — including the San Jacinto River Waste Pits Superfund site damaged by the 2012 Harvey hurricane — could have "material" impacts on the International Paper's bottom line, the company said in its [annual report](#).

While Wheeler hasn't met directly with International Paper, he has attended events where Mark Sutton, the company's chief papermaker, played a prominent role.

On June 6, Wheeler's public calendar shows he [delivered remarks](#) to the Business Roundtable's Energy and Environment Committee. Sutton.

Then on June 28, he [spoke at a meeting](#) of the American Forest & Paper Association's board of directors. The following day, he had a "stakeholder meeting" with the same forest products trade association and another group.

EPA and International Paper both noted that Sutton wasn't at the June 29 meeting. Even if he had been, the agency said, it was according to the agency.

"The meetings were not in fact one-on-one meetings with International Paper as a specific party," the EPA said. "Clearly, it clearly indicates, these were meetings with or remarks given to organizations that were attended by more than one person." Sutton.

The Business Roundtable committee meeting Sutton led "consisted of a broad update on EPA's agenda and other topics," Tom Ryan added. "No company specific issues were raised at any time."

Still, Holman thinks questions about Wheeler's interactions with his roster of nearly a dozen publicly disclosed clients.

"As soon as he stepped into the EPA, he was a conflict of interest," the Public Citizen lobbyist said.

In the end, whether or not Wheeler is strictly abiding by the letter of his ethics promises may be beside the point, says Susman. Voters elected President Trump so he would drain Washington's ethical swamp, not reinforce it.

"There are things that you shouldn't do that may be legal," he said.

The Darling meeting in particular "would certainly come close to if not be over the line for someone to be in a position of money from a client and then go into government and meet with that client on matters of interest to the client."

Reporters Mike Soraghan and Kevin Bogardus contributed.

Want to read more stories like this?

[Click here](#) to start a free trial to E&E — the best way to track policy and markets.

ABOUT GREENWIRE – THE LEADER IN ENERGY AND ENVIRONMENT NEWS

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all the news, Greenwire publishes an average of more than 20 stories a day, Greenwire covers the complete spectrum, from electricity industry restructuring to climate change. Greenwire publishes daily at 1 p.m.

<image003.jpg>

E&E News
122 C Street NW 7th Floor Washington, DC 20004
Phone: 202-628-6500 Fax: 202-628-6501
www.eenews.net

All content is copyrighted and may not be reproduced or retransmitted without the express consent of Environment & Energy Publishing, LLC. Click here for more information.

Appointment

From: Burton, Tamika [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=207E0F24FD934D6D8A3E4C400A311638-BURTON, TAM]
Sent: 4/20/2018 6:40:29 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Fugh, Justina [Fugh.Justina@epa.gov]; Minoli, Kevin [Minoli.Kevin@epa.gov]
Subject: Ethics Training with Justina F.
Location: WJC-N 3412
Start: 4/26/2018 8:00:00 PM
End: 4/26/2018 9:00:00 PM
Show Time As: Busy

Message

From: Wilcox, Jahan [wilcox.jahan@epa.gov]
Sent: 6/14/2018 5:10:36 PM
To: Wheeler, Andrew [wheeler.andrew@epa.gov]; Leopold, Matt (OGC) [Leopold.Matt@epa.gov]
CC: Abboud, Michael [abboud.michael@epa.gov]; Hewitt, James [hewitt.james@epa.gov]
Subject: APPROVAL: Clarification re Andrew Wheeler, Murray Energy
Attachments: DA Signed Recusal Statement .pdf

Ex. 5 - Deliberative Process

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:) [mailto:jdlohy1@bloomberg.net]
Sent: Thursday, June 14, 2018 12:10 PM
To: Abboud, Michael <abboud.michael@epa.gov>
Cc: Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: Clarification re Andrew Wheeler, Murray Energy

Michael, was there any update on this? (I'm still a few days out from definitely needing it).

Jennifer A. Dlouhy
jdlohy1@bloomberg.net / **Personal Email / Ex. 6**
Personal Email / Ex. 6
Desk: 202.807.2159
Cell/Text/Signal: **Personal Phone / Ex. 6**
Twitter: @jendlouhyhc
Stories: <http://bloom.bg/23Crpvk>

From: abboud.michael@epa.gov **At:** 06/06/18 12:07:12
To: [Jennifer A. Dlouhy \(BLOOMBERG/ NEWSROOM: \)](mailto:jdlohy1@bloomberg.net)
Cc: wilcox.jahan@epa.gov
Subject: RE: Clarification re Andrew Wheeler, Murray Energy

Hey Jen we should have something to you shortly. Are you working on a deadline?

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:) [mailto:jdlohy1@bloomberg.net]
Sent: Wednesday, June 6, 2018 11:36 AM
To: Press <Press@epa.gov>
Subject: Clarification re Andrew Wheeler, Murray Energy

Good morning, EPA press.

Can you clarify how Andrew Wheeler is handling any matters involving Murray Energy? Does he have a waiver to engage on issues involving coal and/or Murray Energy, to the extent they arise? Has he recused himself?

Thanks,

Jen.

Jennifer A. Dlouhy

jdlohy1@bloomberg.net /

Personal Email / Ex. 6

Personal Email / Ex. 6

Desk: 202.807.2159

Cell/Text/Signal: **Personal Phone / Ex. 6**

Twitter: @jendlouhyhc

Stories: <http://bloom.bg/23Crpvk>



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Andrew R. Wheeler
Deputy Administrator

Andrew R. Wheeler
5-24-18

TO: E. Scott Pruitt
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Faegre Baker Daniels LLP**, or any former client to whom I provided legal or

consultative services during the past two years is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties representing a diversity of viewpoints. If my former employer or a former client is present, then I understand that, generally speaking, at least four other parties should be present to ensure that a diversity of viewpoints is represented and not the same united perspective.

Because I was formerly a federally registered lobbyist, I understand that I am also subject to the provisions of Section 1, paragraph 7 of the Executive Order. For a period of two years, I will not participate in any particular matter on which I lobbied in the preceding two years, nor will I participate in the specific issue area in which that particular matter falls. This recusal encompasses issues that I lobbied on before EPA as well as before other federal agencies during the preceding two years including, for example, Section 202(c) of the Federal Power Act.

Set forth below are my former clients identified in consultation with OGC/Ethics that have or may have environmental interests that could potentially arise with respect to my duties here at EPA,¹ as well as the specific issues areas from which I am recused:

RECUSAL LIST	
In effect until April 28, 2020	
FORMER EMPLOYER: Faegre Baker Daniels LLP	
FORMER CLIENTS:	
Murray Energy Sargento Food Inc. Underwriters Laboratories Energy Fuels Resources Inc.	Growth Energy International Paper Martin Farms Xcel Energy
FORMER LOBBYING ISSUES:	
Energy Star	

¹ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to federal ethics rules, I understand that I have a one-year cooling off period with any organization in which I was an active participant. For one year after my resignation from the National Energy Resources Organization (NERO), I am prohibited from participating personally and substantially in any particular matter involving specific parties in which NERO is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). That said, I acknowledge that NERO does not itself lobby or represents parties other than itself.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above, I will instruct Michael Molina, Senior Advisor to the Deputy Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities on my recusal list should be directed to Mr. Molina without my knowledge or involvement until after my recusal period ends.

If Mr. Molina determines that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Kevin Minoli, Designated Agency Ethics Official, and Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Ryan Jackson, Chief of Staff
Michael Molina, Senior Advisor to the Deputy Administrator
Kevin Minoli, Designated Agency Ethics Official
Justina Fugh, Senior Counsel for Ethics